

Mr. Speaker, I rise today in opposition to H.R. 5. Although I support the concept of sensible medical malpractice laws, this bill goes too far in defending negligence, and not far enough in protecting patients. In my home state of Wisconsin, we have medical malpractice laws that work, including a cap on non-economic damages of \$442,000, which is indexed for inflation. Although this cap will not be affected by H.R. 5, many other portions of Wisconsin's laws will be.

Currently, each state sets the legal criteria for a person to be able to receive punitive damages. H.R. 5 will override these state laws, however, changing the criteria to require that, "It is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer."

Undoubtedly, under this very strict criteria, large numbers of malpractice victims will lose the right to receive non-economic damages of any kind.

H.R. 5 also overrides state laws pertaining to the statute of limitations for filing a claim and overrides state limits on attorneys fees. These limits make attorneys less likely to invest in representing a victim of medical malpractice. The result is that even more malpractice victims will lose the right to receive compensation.

Additionally, H.R. 5 goes beyond medical malpractice law by including the provisions regarding pharmaceutical and medical devices. The bill completely exempts from liability medical device makers and distributors as well as pharmaceutical companies, as long as the product complies with FDA standards. These provisions would have no effect on medical malpractice insurance rates. Instead, they would leave victims with little recourse and render them unable to hold pharmaceutical companies and the makers of defective medical products accountable for faulty or unsafe products.

Although I oppose H.R. 5, I agree that medical malpractice issues must be addressed. To that end, it is important to craft a consensus piece of legislation that both protects patients and keeps physicians in business. In Wisconsin, we are proud to have laws that effectively accomplish both of these goals. These laws are threatened, however, by the current proposal. For this reason, I oppose H.R. 5.